

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL) MDL No. 1456
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION NO. 01-12257-PBS
PRICE LITIGATION)
_____)

CASE MANAGEMENT ORDER NO. 5

October 28, 2002

Saris, U.S.D.J.

1. Each party shall make automatic disclosures by November 15, 2002 or within 30 days of service.

2. By December 16, 2002, each Defendant shall produce the following categories of documents:

a. Existing or Previous Investigations: A copy of the set or sets of documents, if any, previously produced by a defendant to any federal or state executive or legislative agency or entity in connection with any investigation into, in whole or in part, the use of the average wholesale price ("AWP") in the pricing or reimbursement of a drug manufactured by that defendant during the Class Period. Such document shall include a copy of the document request, subpoena or other demand under which the documents were produced by the defendant;

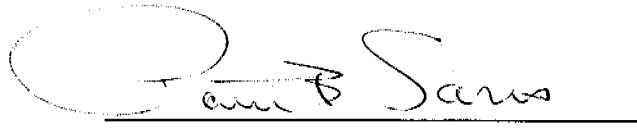
b. Other Legal Proceedings: A copy of the set or sets of documents, if any, previously produced by a defendant in connection with any other legal proceeding not listed above (e.g., court proceedings, arbitrations) in which that defendant is or was alleged to have overstated the AWP, misstated the AWP, manipulated the AWP or otherwise failed to account for certain costs (e.g., the costs of free samples, purported educational grants, gifts, rebates, offsets, etc.) in the AWP, for any drug manufactured by that defendant during the Class Period.

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3. Except as otherwise set forth in the preceding paragraphs, discovery shall be stayed as between the parties until such time as the Court has conducted the hearing on the Defendants' Motion to Dismiss.

4. This Order shall not prevent any party from seeking document discovery from a non-party to the litigation.

5. The parties shall submit to the Court a discovery plan in accordance with Rule 16(b) within fourteen (14) days after the ruling on Defendants' Motion to Dismiss. The Court will schedule a Rule 16(b) conference to consider the proposed discovery plan.



PATTI B. SARIS
United States District Judge